

16-1362 ENCINO MOTORCARS, LLC V. NAVARRO

DECISION BELOW: 845 F.3d 925

LOWER COURT CASE NUMBER: 13-55323

QUESTION PRESENTED:

Respondents are "service advisors" at a car dealership whose primary job responsibilities involve identifying service needs and selling service solutions to the dealership's customers. Respondents brought suit against the dealership under the Fair Labor Standards Act ("FLSA"), 29 U.S.C. §§201-219, seeking time-and-a-half overtime pay for working more than 40 hours per week.

The FLSA exempts from its overtime requirements "any salesman, partsman, or mechanic primarily engaged in selling or servicing automobiles." *Id.* §213(b)(10)(A). In its first decision in this case, the Ninth Circuit found Respondents non-exempt by deferring to a 2011 Department of Labor regulation. This Court granted certiorari, considered merits briefing and argument, and vacated that decision, holding that "§213(b)(10)(A) must be construed without placing controlling weight on the Department's 2011 regulation." Pet.App.44.

On remand, the Ninth Circuit once again found Respondents non-exempt. As it had in its initial vacated decision, the Ninth Circuit acknowledged that its holding conflicts with published decisions of the Fourth and Fifth Circuits, several district courts, and the Supreme Court of Montana, all of which hold that service advisors are exempt. Pet.App.30, 65.

As it was last time around, the question presented is: Whether service advisors at car dealerships are exempt under 29 U.S.C. §213(b)(10)(A) from the FLSA's overtime-pay requirements.

CERT. GRANTED 9/28/2017